CITY OF BURLINGTON HOUSING BOARD OF REVIEW

In re:	Request for Hearing of DAVID and)
	PATRICIA DANEHEY-LALIME Regarding the) Appeal of Minimum Housing
	Rental Property at 38 Marshall Drive) Order

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on October 5, 2020; the hearing was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Betsy McGavisk, Olivia Pena and Charlie Gliserman were also present. Petitioners David and Patricia Danehey-Lalime were present and testified. Minimum Housing Inspector Steve Cormier; Patti Wehman, Division Manager of Housing and Code Enforcement; and William Ward, Director of Permitting and Inspections, were also present and testified.

Upon consideration of the evidence and the applicable law, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

- 1. Petitioners David and Patricia Danehey-Lalime are the owners of the rental property, 32 Marshall Drive, in the City of Burlington which is the subject of these proceedings.
- 2. On September 1, 2020, Minimum Housing Inspector Steve Cormier conducted an inspection of the property and issued an order on September 8, 2020. In that Order, Inspector Cormier noted 2 minimum housing violations at the property.
- 3. On September 3, 2020, petitioners appealed the Minimum Housing Order. Petitioners do not dispute that the exterior stairs needed a railing, but questioned why the lack of one wasn't cited previously. Petitioners complain generally about the lack of consistency between housing inspectors. Similarly, petitioners do not dispute needing to paint the ceiling in the bathroom, but question why a minor issue is an infraction. Petitioners completed the required painting and are in the process of having a railing installed.

- 4. Petitioners also appeal the issuance of a 4-year Certificate of Compliance rather than a 5-year certificate which they previously had.
- 5. William Ward explained that Section 18-19 of the Minimum Housing Code allows for a 5-year certificate of compliance if there is no deficiency at the rental property. However, even 1 deficiency means that only a 4-year certificate of compliance is issued.

CONCLUSIONS OF LAW

- 6. Section 18-42(d) of the Minimum Housing Code gives the Board the authority "to reverse or affirm, in whole or in part, any order or other action of the inspector and to make such order, requirement, decision or determination as ought to be made...."
- 7. Section 18-18 of the Minimum Housing Code requires an owner of a rental property to have a certificate of compliance in order to rent the property.
- 8. Under Section 18-19(c) of the Code, Permitting and Inspections shall issue a 5-year certificate of compliance for a rental property found to have no violations of the minimum housing standards. Under Section 18-19(d) a property found to have 5 or fewer violations of the minimum housing standards, and the violations are corrected within the time set for compliance, shall be issued a 4-year certificate of compliance.
- 9. Two violations of the minimum housing standards were found at petitioners' property when it was inspected on September 1, 2020. Petitioners did not contest the violations. Under the Minimum Housing Code, Permitting and Inspections could only issue a 4-year certificate as there were 5 or fewer violations found. Permitting and Inspections was correct to do so.

ORDER

Accordingly, it is hereby ORDERED:

10. The Board affirms the Minimum Housing Order dated September 8, 2020 and determines that only a 4-year certificate of compliance can be issued for the property.

Dated at Burlington, Vermont this 4 of November, 2020.

CITY OF BURLINGTON HOUSING BOARD OF REVIEW

/s/ Josh O'Hara Josh O'Hara

/s/ Olivia Pena Olivia Pena

/s/ Betsy McGavisk Betsy McGavisk

/s/ Charlie Gliserman Charlie Gliserman